IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 569 of 2005

Between:

M/s. Sri Sai Kiran Agencies, rep by Proprietor-R Kiran Kumar S/o

Ramakrishna Reddy
R/o Door No. 10-14-581, Reddy & Reddy Colony, Tirupati, Chittoor

District

..... PETITIONER

AND

1 The Commissioner, Office of Religious Endowments Government of

Andhra Pradesh, Tilak Road, Hyderabad
2 The Executive Officer-cum-Joint Commissioner, Sri

Kalahastheeswara Swamy Devesthanam,
Sri Kalahasti, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly one in the nature of Writ of Mandamus, declaring the action on the part of the 2nd respondent in issuing the 2nd auction notice vide Rc. No. B2/1016/2003 dated 2-1-2005 without finalizing the tenders submitted in pursuance of earlier auction notice vide R.C. No. B2/1016/2003, dated 13-12-2004 is arbitrary, illegal, violative of principles of natural justice and violtive Articles 14, 19 (1) and 21 of the Constitution of India as well as conditions of auction notice and consequently direct the 2nd respondent to allot the contract to the petitioner in pursuance of

the 1st auction notice vide R.C. B2/1016/2003, dt 13-12-2004 forthwith and pass such other order or orders.

Counsel for the Petitioner: MR.P.RAMABHOOPAL REDDY

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for Respondent No.2: Sri V. Venugopal Rao

The Court at the stage of admission made the following ORDER:

The petitioner responded to a notification, dated 13.12.2004, issued by Sri Kalahastiswara Swamy Devasthanam, for the supply of several items. According to it, it emerged as L1 in respect of several items. The Devasthanam issued a tender notice dated 02.01.2005. The petitioner challenges the action of the Devasthanam in ignoring its bid in response to the first tender notice and proceeding with the second tender notice.

In the counter-affidavit filed on behalf of the Devasthanam, it is stated that the samples submitted by the participants, in response to the first tender, were not found satisfactory and the petitioner did not produce any valid Certificate of Registration from the Sales Tax Department in relation to the items concerned. The circumstances, under which the second tender notice was issued, are stated.

Heard the leaned counsel for the petitioner and the leaned standing counsel for the Devasthanam.

The tender notice dated 13.12.2004 was issued in respect of four items. For three, the process of tender was adopted, whereas for the fourth item open bid was provided for. The petitioner submitted its tenders for the first three items. Those three items, in turn, have several sub-items. The process itself is very complicated. The Devasthanam was required to satisfy itself not only about the price offered by the tenderers but also about the quality of the material to be supplied. Majority of the tenders were rejected, on account of the sub-standard

quality of the goods. The tender of the petitioner was not considered, on the ground that it submitted a registration certificate from the Commercial Tax Department issued in the year 1997 and not the one up to the date. A second tender notice was issued on 02.01.2005. In the interim order dated 24.01.2005, the respondents were permitted to proceed with the process, but were directed not to finalize the tenders.

It has now emerged that the petitioner has also responded to the second tender notice. As observed earlier, mere price quoted in the tender is not going to be the deciding factor. The respondents have to satisfy themselves about the quality of the relevant items also. The learned counsel for the petitioner submits that the certificate held by the petitioner under Section 12(1)(2) of the A.P. General Sales Tax Act enables it, to undertake business in several items, including textiles. If that be so, it can satisfy the respondents about its entitlement to conduct the business, on the strength of such certificate.

In the facts and circumstances of the case, the writ petition is disposed of directing that the respondents shall consider the tender of the petitioner also, in case it is able to satisfy them that the Sales Tax Registration Certificate held by it enables it to conduct the business in the items for which it submitted the tender. In addition to considering the rates quoted by the various tenderers and the petitioner, the respondents shall also consider the feasibility of undertaking negotiations, and award contract in favour of such tenderer, whose bid and samples are found to be satisfactory. There shall be no order as to costs.

10.02.2005

Note:

Issue CC. In three days.

(BO)

ksld

To

1 The Commissioner, Office of Religious Endowments Government of

Andhra Pradesh, Tilak Road, Hyderabad
2 The Executive Officer-cum-Joint Commissioner, Sri

Kalahastheeswara Swamy Devesthanam,
Sri Kalahasti, Chittoor District

3 Two CCs. to the G.P. for Endowments, High Court of A.P.,

Hyderabad(OUT)

4 Two CD copies.